



Initiative Reform in Arizona: Exploring Some Ideas

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May 2013

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Since statehood in 1912, Arizona has been among the nation's leaders in using the initiative process to either adopt a statute or amend the state constitution by placing a measure on the ballot. But such efforts are anything but easy. In fact, organizers have found it to be an expensive, time-consuming and exhausting process – and one that is unlikely to end successfully.

To date, since 1970, groups have taken out 425 initiative petitions but only 67 (or 16 percent) actually made it to the ballot. Less than half of those initiatives (32) were approved by Arizona voters, making for an overall success rate – from petition to passage – of just 8 percent.

Arizona is one of 24 states with an initiative process that allows groups to put measures on the ballot for voter approval (*See Table 1*). Arizona's initiative was just one of the instruments of direct democracy – the referendum and recall being others – written into the state's one and only constitution in 1910.

Arizona's initiative device was intended to provide the general public with a mechanism to get around legislatures that refused to take action desired by a majority of the voters. Meanwhile, the referendum was valued as a way to challenge what the legislature had done, and the recall as a way to remove those from office who were not responding to their constituents' wishes.

The initiative process itself is politically neutral. It has been employed by all kinds of groups for all kinds of causes, including by both those in favor of increased spending and those who seek to curtail spending, by people in favor of medical marijuana, and by people opposed to affirmative action.

Still many see the need to reform the initiative system in one way or another. Principal stakeholders include state legislators, who have little love for the system and no qualms about making it more difficult to use; potential initiative organizers, who have little trust in legislators to do the right thing; petition-circulating companies and other private firms in the initiative business; and election officials, who must somehow administer complex laws. The topic of initiative reform also has captured the attention of various foundations, nonpartisan and non-profit groups, and academic researchers.

Presently, the initiative process requires organizers to first get clearance from the Arizona Secretary of State to circulate a petition. They then proceed to gather from registered voters a required number of signatures (the total varies according to voter turnout in the previous gubernatorial election). If signature requirements are met, the measure is placed on the next general election ballot and is voted up or down by a simple majority vote.

Changes Regarding Initiative Process Discussed or Pending in the 2013 Arizona Legislature

- Require companies that circulate petitions for initiative campaigns to register with the Secretary of State, run background checks on circulators they hire and train them on laws regarding petition circulation.
- Require paid circulators to register with the Secretary of State, penalize them for providing false information in an affidavit or background check, and invalidate the signatures gathered by circulators who do not register.
- Require that signatures on initiative petitions be collected from several counties other than the two most populous ones of Maricopa and Pima. (*Proposed Constitutional Amendment*)
- Require a warning on ballots and ballot information that once approved, ballot measures cannot be changed without a three-fourths vote of both houses of the legislature.
- Move the deadline for filing signatures from four months before the general election (July) to six months (May). (*Proposed Constitutional Amendment*)
- Make “strict compliance” with the law rather than “substantial compliance.”

Many of the ideas and proposals floating around relate to signature requirements, the process of gathering signatures, getting the legislators more involved, and improving voter decision making.

Some ideas go in opposite directions and not one of them could be considered a panacea, but many are worth considering from a variety of perspectives.

Adjusting the Signature Level

Since achieving statehood in 1912, Arizona has been among the nation’s leaders in the use of the initiative process, with mixed results.¹ Getting past the signature requirement has been the major hurdle, but even those that made the ballot were successful less than half the time.²

One could argue that the system has worked in weeding out frivolous proposals. On the other hand, one also could argue that the system, especially in recent years, has not necessarily worked to the advantage to those with the best proposals as it has to the advantage of those with superior financial resources.

Arizona like several other states ties the number of signatures needed to a percentage of the number of votes cast in the most recent gubernatorial election. To initiate a statutory change, petition gatherers must collect a number of signatures equal to at least 10 percent of that vote. The percentage for a constitutional initiative is 15%.³

With population growth and the corresponding increase in the number of voters, the number of required signatures needed – the best indicator of what financial resources are going to be needed – automatically increases.

In 2010, 153,365 signatures were necessary for a statute and 230,047 for a constitutional amendment. This requirement increased to 172,808 and 259,212, respectively, in 2012. Back in 2000, the numbers were 101,762 for a statute and 152,643 for a constitutional amendment.

In expectation of errors in the collection process and successful challenges to the validity of some of the signatures collected, proponents aim to gather far more than required by law. A

commonly employed rule of thumb is that one out of four gathered signatures will be rejected – often because the signee is not officially recorded as a registered voter.

The more signatures that have to be collected, the greater the need for paid signature gatherers and, with this, the greater the cost and the greater the likelihood that the participants in the process will be narrowed down to the wealthiest or well-funded groups.

Money, of course, comes in useful after a proposition makes the ballot in order to hire a private firm or firms to undertake polling, media production and other campaign activities. In a way, though, money plays an even more vital role during the signature-gathering process. Spending large amounts of money on behalf of an initiative measure during a general election campaign does not guarantee success, but financial backing is essential if a group is going to be able to get a measure on the ballot in the first place via signature requirements. The cost of hiring paid petitioners in Arizona varies from measure to measure but can easily exceed more than \$1 million for a statewide campaign.⁴

Many citizen and advocacy groups lack the financial backing to effectively participate in the signature-gathering process. And those who can afford to participate do not necessarily have the best ideas for Arizona. As an academic authority on the subject, Elisabeth Gerber, has noted: “Although there is no solid data on this topic, it appears from anecdotal evidence that professional petition circulators can qualify just about any measure, no matter how narrow, obscure, extreme, or obnoxious, for a price.”⁵

Dispute over the size of the signature requirement has a long history in Arizona. At the Arizona Constitutional Convention, those who opposed the initiative did not have the votes to keep it out of the state’s basic document but worked to make the signature requirements for its use as high as possible. Those in favor of the device liked the idea of relatively small, more workable, number of signatures.

From time to time, some have suggested that signature requirements in Arizona are too low. Governor Jane Hull in 2000, for example, complained that it was wrong to allow slightly more than 100,000 people to force a public vote and suggested a 5 percent hike in signature requirements.⁶

By comparison with other states, however, the rate in Arizona does not seem low. Oregon requires 6 percent of the most recent vote for governor for initiated statutes and 8 percent for initiated constitutional amendments. In California, it is 5 percent for statutes and 8 percent for constitutional amendments. Washington, with a population comparable to Arizona, requires 8 percent (the initiative applies only to statutes).

Other states with a 10 percent requirement for statutes, such as Nevada and Utah, have significantly smaller populations than Arizona. The 15 percent requirement for ballot access for constitutional amendments found in Arizona and Oklahoma is the highest in the nation.⁷

One national nonpartisan group has concluded that Arizona's requirements are far too high, resulting in a disadvantage for grassroots volunteer efforts. It has suggested that the statutory percent be lowered to 5 percent or less, and the constitutional percent to 8 percent or less.⁸

Some Arizona legislators have recommended that the percentage in Arizona be reduced to 8 percent for statutory changes and 13 percent for constitutional changes – amounting to about 138,200 and 225,000 votes respectively in 2014.⁹

Assuming continued growth, though, lowering the percentage requirement would bring only temporary relief in Arizona in terms of meeting the costs of involvement. A better alternative might be to require a fixed number of signatures.

While requiring a certain number of signatures may be justified in terms of demonstrating public support for a specific ballot issue, some critics of the method say the number should not be so high as to discourage low-budget grass roots citizens groups. Otherwise, only well-heeled organizations or individuals will be able to participate in the process, which arguably is the case in Arizona.

Regulating the Gatherers

Over the last several years Arizona has joined with several other states in adopting a wide range of regulations on petition circulators. Much of the focus has been on paid circulators.

In the Progressive Era of the early decades of the 20th century, concern was that use of paid signature gatherers gave wealthy groups and rich individuals a green light to buy their way onto the ballot led some states to ban the practice.¹⁰ The U.S. Supreme Court ruled in 1988, however, that banning the payment of signature gatherers is an unconstitutional violation of the First Amendment.¹¹

Since then, attention has centered not on banning paid gatherers but on finding ways to discourage their use or to encourage the use of volunteers in place of paid ones. Seven states, including Arizona, require circulators to disclose whether they are paid or volunteer – the underlying assumption apparently being that “citizens would be less likely to sign petitions if they knew the circulators were professionals rather than volunteers.”¹²

Related steps could be taken include: reducing the number of signatures required in general to reduce the demand for gatherers whether volunteer or paid; reducing the number of signatures required for drives by volunteer help; and giving more weight to signatures collected by volunteers than those gathered by paid circulators.

At one time, several states imposed a residency requirement for petition circulators. Many of these, however, have run into legal difficulty. Arizona is among the states that no longer has a residency requirement because of court decisions. It does, however, require non-resident circulators be registered with the Secretary of State. A measure currently pending in the

legislature would add some teeth to existing laws by invalidating the signatures collected by non-resident gatherers who were not registered.

Laws directed against out-of-state circulators reflect the view that they lack a vested interest in the petitions they promote – they do not have to live with the effects of the legal changes they are asking others to support. Beyond this is a belief that the outsiders do not really care about the petition they are pushing but are only interested in making money.¹³

Spokespeople for petition-circulating companies and others counter that discriminatory practices against out-of-state circulators are unconstitutional and unfair (they are not imposed on others, such as outside consultants who are far more deeply involved in making policy) and make it more difficult to bring in competent professional workers.¹⁴

Some states have taken a broader approach than Arizona by regulating paid gatherers in-state as well as out-of-state. Oregon has some of the toughest laws in requiring gatherers to register, pass background checks and go through training on the laws regarding petition circulation. A measure is currently pending in the Arizona legislature with similar provisions.¹⁵

Much of the attention on paid circulators has been on how they are paid. A half-dozen states ban the practice of paying petition circulators per signature gathered.¹⁶ The thinking behind the ban is that with the incentive provided to gatherers – the more signatures they collect, the more money they make – the more likely they are to misrepresent the contents of a petition, forge signatures, and engage in other forms of fraud and dishonesty. Payments per signature range from \$2 to well over \$3.¹⁷

Those who defend payment by the signature argue that this method is the most cost-effective way of gathering signatures and to ban the practice would drive up the cost of petition drives – making it even more difficult for low-budget groups to use the system, and chip away at First Amendment rights.

Bans on paying petition circulators per signature have run into legal difficulties in some states. Research, cited in some court cases, suggests that circulators paid by the signature do not have higher rates of fraud than those who paid by the hour, or, indeed, who are volunteers.¹⁸

Payment per signature became an issue in Arizona in 2008 following the failure of several high-profile initiatives to gather enough valid signatures to reach the ballot. For some initiatives nearly half of the signatures collected were found invalid – some had fraudulent names including “Jimmy Carter” and Gerald Ford.”

Jan Brewer, then Secretary of State, put the blame on petition circulators, many of whom worked on a per-signature basis, for turning in petitions “showered with forgery and fraud.”¹⁹ Both Governor Janet Napolitano and later Brewer after becoming governor pushed for a ban on pay per signature, but the state has not yet responded, thanks, in part, to the opposition of the petition-gathering companies.

Arizona has, like most other states, a variety of other measures to combat fraud and other questionable practices in the gathering process whether committed by volunteer or paid workers. For example, Arizona is one of 10 states to prohibit giving anything of value to sign or not to sign a petition, and among the several states that require circulators to witness petition signatures and attest to their validity. Since 2010 circulation companies in Arizona have been liable for fines and even jail time if an employee is found guilty of fraud.

Changing Deadline and Distribution Requirements

Along with increased regulation of signature gatherers, there has been a long-standing effort in Arizona to make things easier for state and county election officials by moving the deadline for filing signatures to six months (May) before the general election, instead of the previous four months (July). This would give election officials more time to sift through and verify signatures and to await the outcome of inevitable court challenges that must be decided before ballots are printed.

Proponents for the change argue that the deadline for submitting signatures is too close to the deadline for printing the ballot. Opponents, however, object that this makes the difficult task of gathering signatures even more difficult – that petition gatherers, especially volunteers, need the extra time in May and June to get voter signatures.

A proposal calling for this change has considerable support in the legislature and appears likely to be on the ballot in 2014. An identical measure failed by just 128 votes in 2010. Another version put on the ballot by the legislature failed in 1984 by a vote of 528,151 against to 353,835 in favor.

In Arizona and a number of other Western states there has also been considerable pressure to require that collectors gather signatures from several counties or political jurisdictions, such as congressional districts around the state, in order for a statewide measure to qualify for the ballot. These signature distributions are required in half of the states with the initiative process.²⁰

In Arizona, where there is no such requirement, most signatures come from the large population centers in Maricopa and Pima counties. A measure currently pending in the Arizona legislature, if adopted, requires that signatures come from at least five counties and that at least 25 percent of them come from counties other than Maricopa and Pima.

Supporters of distribution requirements argue that this would make the system fairer to people outside the major metropolitan areas and better demonstrate support for a statewide ballot measure. Opponents argue that required distribution could significantly drive up the cost of gathering signatures, thus making the process even that much more difficult for grassroots organizations. They also argue that required distribution would unfairly diminish the views of people in some areas and amplify the views of others, and thereby may be unconstitutional.

Going the E-Signature Route

Going beyond patching up the existing system of gathering signatures signed with ink on paper, there has been considerable interest in recent years in using the emerging technology of electronic or e-signatures.

Allowing registered voters to use their computers to sign initiative petitions online could be an effective way of getting beyond concerns over the high number of signatures required, paid workers versus volunteer workers, fraud committed by gatherers, and debates over signature deadlines and distributions.

Using e-signatures could greatly reduce costs – there would be no more need to pay petition circulators – and level the playing field for those groups with limited budgets. Using the Internet would be more convenient for registered voters. It also would give them more time to gather information and make a decision than the existing system – one in which the registered voter suddenly encounters a petition gatherer, usually a stranger, who is going door to door or standing outside a library or some other building, hoping to get a signature in as little time as possible.

Some have expressed the fear that the e-signature system would make gathering signatures too easy so that voters would find themselves deluged in a flood of measures at each election. Proponents counter that should this prove to be an actual problem, necessary adjustments could be made in the number of required signatures.

The more general concern, shared by those who favor the idea as well as those who are more critical, is the need for putting mechanisms in place to provide security and privacy. Technical problems concerning how to verify signatures and avoid fraud – e.g., copying an e-signature onto several petitions – have been frequent topics of discussion.²¹

Arizona law requires that signatures be collected in person. The state, however, has been a national leader in using the Internet when it comes to voting-related matters. It was the first in the country to have an online voter registration – a practice since followed by several states – and since its origin in 2002 has made millions of transactions without a hitch.

In 2012, moreover, the state began a two-year pilot program (E-QUAL) that allows candidates for statewide office and the legislature to gather half of the signatures they need on nominating petitions through an online registration system.

Not surprisingly to several observers, while legislators were willing to experiment with a process that would make petition gathering easier and less expensive for themselves and other elected officials, thus far they have shown little interest in doing the same for those who would use the initiative process.²²

Getting the Legislature More Involved

While initiative supporters may have strong feelings of foreboding when state lawmakers mention initiative reform, the states have, at times, actually have offered assistance to those who would use the system.

In Arizona, for example, organizers may submit the text of their proposed measures to the Arizona Legislative Council, to check for confusing language, inconsistent provisions, and other errors that might lead to unintended consequences process could use better review. Organizers are under no obligation to take the advice of the Council to revise the text.

A commonly recommended way to get legislatures involved in a more meaningful and constructive way in the early stages of the initiative process is the indirect initiative. Unlike the direct initiative that bypasses the legislature in sending a measure that meets signature requirements directly to the voters, the indirect initiative process first sends a measure that has the required number of signatures to the legislature.

The legislature may adopt the proposal as submitted, thus ending the process and avoiding a public vote. The process may also end with the legislature's adoption of a compromise measure worked out by lawmakers and proposal sponsors.

If, however, the legislature fails to act within a certain time period or fails to satisfy the sponsors of the proposed measure with what it does pass, the proposition goes on to the voters. Most states with the indirect system do this automatically, but some require that proponents gather additional signatures to put the measure on the ballot. In the event of a disagreement, the voters may wind up choosing between two competing proposals – those of the legislature and the original sponsor.

Currently eight states have various versions of the indirect initiative. *(See Table 1)* This process is generally used to make statutory changes. Only two states allow its use for constitutional changes. In Massachusetts, the process may be used to bring constitutional as well as statutory changes with a relatively low signature requirement of 3 percent of the vote in the last gubernatorial election.²³

Given the long use and popularity of the direct initiative in Arizona, it is more politically feasible to think of the indirect initiative as an addition to the existing system rather than as a replacement. Two Western states – Utah and Washington – have both the direct and initiative processes. California abandoned the indirect route several years ago but the idea has recently resurfaced.

One supporter of the indirect approach and a longtime observer of the California legislature and initiative process in that state concludes: “Based on 40 years of experience watching the legislature respond to initiatives, it is my best estimate that the legislature and the proponents would agree on a solution between 15 and 20 percent of the time, thus reducing the number of measures on the California ballot by one or two per election.”²⁴

The indirect route could possibly lead to a better product because legislative involvement brings more deliberation, professional research, bill-drafting services and an input for public hearings.

With these come an increased opportunity to detect errors and unintended consequences – for example, how the policy affects other policies – that otherwise might be missed.

In addition to better-drafted measures, potential benefits include reducing the costs of signature gathering and avoiding a cluttered ballot with measures that have legislative support.

Historically, however, the indirect system has had a troubled track record. A major problem has been that legislators have rarely even bothered to consider initiative proposals, much less negotiate with the proponents, and the exercise has done little but to delay the issue going to the voters. Still, some reform studies suggest that the system could prove beneficial if coupled with incentives to encourage its use, such as a reduction in the number of signatures needed and a requirement that the legislature hold public hearings on all measures submitted to them.²⁵

In a simplified version of the “indirect” approach, Alaska and Wyoming laws declare that an initiative measure cannot go on the ballot until the legislature has had a chance to address the issues in so many days or even a whole session. If the legislature passes the measure or substantially a similar measure (as determined by the lieutenant governor and attorney general in Alaska, and the attorney general only in Wyoming) it does not go on the ballot. If the legislature does nothing, the measure goes to the voters. The approach used in the two states is less friendly to initiative originators in that they have less of an opportunity to bargain.

Improving Flexibility

When it comes to increasing legislative involvement, few changes have been higher on the list of Arizona legislators than lifting limits on their ability to amend and repeal initiatives adopted by the voters.

Issues involving “legislative tampering” have a long history in Arizona. During the first several decades following statehood there appears to have been a general consensus in the legal community that measures approved by the voters could not be tampered with by the legislature. The Arizona Supreme Court ruffled the water in 1952 by ruling that it was legally possible for lawmakers to take such action.²⁶ To do so, however, was politically risky. Arizona lawmakers in 1995, for example, met a ground swell of criticism from the news media and citizen groups for apparently ignoring the will of the people as expressed in the 1994 elections on several questions on the ballot.²⁷

Three years later the legislature’s decision to gut a voter-approved medical marijuana measure and ignore the decision on the voters as to how tobacco-tax money was to be spent set off a storm of protest and a drive headed by two prominent Arizona politicians, Arizona Attorney General Grant Woods and Maricopa County Sheriff Joe Arpaio, for a “Voter Protection Act.”

This proposition, adopted by the voters in 1998 prevents the legislature from repealing any initiative or referendum approved by the voters and requires a three-fourths legislative vote in both legislative chambers to make any changes in measures approved by the voters. In addition, any change must “further the purpose” of the ballot proposition – not thwart it.

Currently, 10 states limit the ability of the legislature to amend or repeal an initiated measure by requiring a supermajority vote to do so or by prohibiting such action for a specific period of time. In 14 states, however, the legislature is free to amend or repeal an initiated measure at any time by a simple majority vote.²⁸

Arizona initiatives carry much weight. In fact, critics argue that the restriction in Arizona has virtually etched initiatives in stone, making it difficult to change them even though they are later found faulty or the problems to which they intended to address since have changed.

Legislators argue the Voter Protection Act has severely handcuffed them when it comes to adjusting to budgetary problems.

One measure pending in the Arizona legislature would require that a warning be attached to ballots and all ballot information that once approved, ballot measures can “never” be changed without a three-fourths vote of both houses. Some object to the use of the word “never” in the warning as misleading.²⁹

Defenders of severe restrictions such as those found in Arizona argue the record shows that legislators simply cannot be trusted; with a free reign they would gut programs they did not like even though the programs had popular support.

The problem of handcuffing the Arizona legislature on budgeting matters was lessened a bit in 2004 when voters approved a measure requiring those who would use the initiative to increase spending for a new program to designate a funding source other than the general fund.

Toward further increasing financial flexibility, Arizonans might consider rethinking a proposition adopted by the voters in 1992 that requires a two-thirds majority of the total membership in the legislature to raise taxes or make any “net increase in the state’s revenue collection.”

Another, broader step toward building flexibility into the initiative process, would be to adopt a law requiring that initiatives automatically terminate or go back to the voters for rejection or affirmation after so many years. Also often advocated is the idea of allowing the legislature to change initiatives after they had been in effect for a “cooling-off” period of four or five years.

Improving Voter Input

The notion that there is a need to improve the quantity and quality of information so voters can make well-informed decisions has long inspired suggested reforms in the initiative process. One way noted in various studies is to reduce the number of initiative propositions allowed in a single election. This could be done by making the process more difficult for initiatives to qualify for ballot status, such as requiring more valid signatures.

When faced with a large number of initiative propositions, voters are less willing or able to examine each individual proposition in detail. In this situation, many decide not to vote – in any

given election, 10 percent to 25 percent of those who vote for candidates at the top of the ballot fail to vote on one or more of the proposition measures. Others play it safe by simply voting “no” on all or most of the propositions. Those who plunge ahead and vote on numerous initiatives may wind up voting for something they do not like or against something they do like. In either case, they may later regret their decision.

Reducing the number of propositions on the ballot could have beneficial effects in Arizona in terms of making the task easier for voters. The problem of clutter here, however, has generally had much less to do with the initiative process than with legislative referrals. In 2012, for example, legislative referrals accounted for seven of the nine measures on the ballot. Two years earlier, nine of the 10 propositions on the ballot were put there by the legislature.

Since 1970 the number of initiative measures on the ballot has ranged from zero to 10. (*See Table 2*) The most frequent number has been one initiative. In 13 of the 22 elections since 1970, the number of initiative measures on the Arizona ballot has been two or less. In only three of the 22 elections did the number of initiatives constitute more than half of the measures on the Arizona ballot. The average number of initiatives has been three. Therefore, voter confusion from proposition clutter perhaps could be best addressed by somehow limiting the number of legislative referrals rather than the number of initiative measures.

When it comes to simplifying the task of the voter, it makes sense to facilitate the cue-taking process. Academic studies indicate that many voters with low levels of information on propositions cope by taking cues from people they respect. These are often prominent elected officials and leading politicians, and leaders of various groups with which they identify.³⁰ This being the case, it would be useful to have the positions of such leaders, individuals and various organizations be listed in voter guide material.

On the other hand, some might argue that the real need is not additional cues but reliable information regarding the propositions under consideration. Both the quality and flow of information could be improved by requiring public hearings on measures that have reached the ballot or likely would achieve ballot status according to the number of signatures gathered. The hearings – called by the legislature, secretary of state or another state official – could provide a forum for staff research and analysis, along with expert testimony on the subject, and an opportunity for the expression of views both pro and con on the proposition.

To improve the quality of information going to the voters in terms of its objectivity, some have suggested that a nonpartisan agency or body of citizens consider and take a position on proposals on the ballot and have their advice included in the state publicity pamphlet.

Along this line, Oregon has been experimenting with the Citizens’ Initiative Review (CIR) program, approved by the legislature in 2011. In this program, a randomly selected and demographically balanced group of registered voters study initiative measures on the ballot. The citizen panels spend several days listening to arguments by those for and against a proposition, along with experts on the topic – much like lawmakers do in legislative hearings – and follow up by making up or down recommendations on the measures.

The group's recommendations, plus findings both for and against the proposals, are included in the state's voter pamphlet that is mailed to every household with registered voters. The innovative program, run by a nonpartisan organization called Healthy Democracy, relies on volunteer and foundation funding (contributions from political committees, unions and for-profit businesses or unions are prohibited). The Oregon legislature adopted CIR it as a pilot project in 2009 and, after a successful run, gave it formal legal recognition in 2011.

An evaluation of the program's operation in 2012 found that slightly over half of Oregon voters were aware of the CIR (up 9 percent from a pilot study two years earlier), and around two-thirds of those who read the CIR's statements in the voting guide found them informative and useful in helping them make up their mind on how to vote.³¹

The Bottom Line

When it comes to the gathering of signatures, the idea of allowing them to be collected through the Internet is the most revolutionary. It could greatly reduce many of the problems found in the current system in Arizona, though possibly bringing a set of new and unanticipated problems.

Rather than adopt a new system, simply lowering the signature level would not only ease the pressure to hire paid professionals and help lower the cost of initiative drives, it would reduce costs and delays down the line incurred in verifying signatures.

Also, reducing the signature level would be useful to offset the increased pressure on grassroots organizers brought by changes such as moving back the deadline for turning in signatures and requiring that signatures be collected from several counties should they be considered desirable.

Arizona like many other states has made a substantial effort to regulate those who circulate initiative petitions and to crack down on signature fraud. Many feel that more regulation and monitoring should be done, especially banning the pay-per-signature practice.

Other ideas worth further consideration from various perspectives include: giving legislators an opportunity to make a positive input early on in the process through an indirect initiative; making it easier to review, revise or reject initiatives already adopted; and establishing a citizen's review panel to study and make recommendations concerning pending initiative measures.

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Table 1 States With Initiative Processes*D = Direct Initiative, I= Indirect Initiative*

State	Statutory Initiative	Constitutional Initiative
Alaska	I	None
Arizona	D	D
Arkansas	D	D
California	D	D
Colorado	D	D
Florida	None	D
Idaho	D	None
Illinois	None	D
Maine	I	None
Massachusetts	I	I
Michigan	I	D
Mississippi	None	I
Missouri	D	D
Montana	D	D
Nebraska	D	D
Nevada	I	D
North Dakota	D	D
Ohio	I	D
Oklahoma	D	D
Oregon	D	D
South Dakota	D	D
Utah	D&I	None
Washington	D&I	None
Wyoming	I	None

Source: National Conference of State Legislatures

Table 2 Initiative Drives in Arizona, Number of Propositions on Ballot Since 1970

Year	Number of Petitions Taken Out	Number Qualifying For Ballot	Number Approved By Voters	Total Number of Propositions On Ballot
1970	8	1	0	6
1972	14	1	1	11
1974	27	1	1	10
1976	5	1	0	7
1978	11	0	0	3
1980	17	2	1	19
1982	14	4	1	10
1984	13	2	0	15
1986	12	2	1	6
1998	9	1	1	8
1990	32	7	2	13
1992	31	4	2	14
1994	43	3	2	9
1996	39	4	4	7
1998	22	3	3	14
2000	14	6	4	14
2002	16	4	1	14
2004	12	1	1	8
2006	23	10	5	19
2008	33	7	1	8
2010	12	1	1	10
2012	18	2	0	9
Total	425	67	32	234
Average	19.3	3.0	1.5	10.6

Source: *Political Almanac* (Phoenix, AZ: *Arizona Capitol Times*, 2013, 2011)

Total number of propositions includes statutory and constitutional measures put on the ballot by the Legislature and referrals regarding public official pay raises recommended by an independent commission.

Endnotes

¹ Looking at the period 1904-2012, Oregon leads the nation in terms of the number of initiatives adopted (363), followed by California (352), Colorado (218), North Dakota (183), and Arizona (174). See: Initiative and Referendum Institute, "Overview of Initiative Use, 1900-2012", January 2013. Found at: [http://www.iandrinstitute.org/IRI%20Initiative%20Use%20\(2013-1\).pdf](http://www.iandrinstitute.org/IRI%20Initiative%20Use%20(2013-1).pdf)

² Looking at the record from statehood in 1912 through 2010, the success rate for Arizona initiatives that made it to the ballot comes out to 42 percent. This puts Arizona somewhere in the middle of the pack – higher than Oregon, Colorado, California and Utah, and lower than Nevada, Montana, Idaho, Wyoming and Washington. See: John Matsusaka, Institute of Initiatives and Referendums, "Initiatives By State, in order of Approval Rate, 1904-2010" <http://www.scribd.com/doc/57836784/Initiatives-by-State-By-Order-of-Approval-Rate-1904-2010>. Updated to 2012, 984 out of the 2,421 initiative measures appearing on the ballot in the states since 1904 were approved. This amounts to 41 percent. Arizona remained in the middle of the states over this period. See: Initiative and Referendum Institute, "Overview of Initiative Use, 1900-2012, January 2013. Found at: [http://www.iandrinstitute.org/IRI%20Initiative%20Use%20\(2013-1\).pdf](http://www.iandrinstitute.org/IRI%20Initiative%20Use%20(2013-1).pdf)

³ Scholars have generally taken the position that a state constitution should be confined to fundamentals and without some safeguards there is a danger that the initiative process will be used to clutter up these documents with matters that should be handled by statute. The fear is that if the signature requirements for the constitutional and statutory initiative are the same, proponents of what is properly a statutory change may be tempted to put it in the constitution, where it will be placed on a higher and more permanent level. To avoid this, Arizona, like most states that have both a constitutional and statutory initiative process, requires that more signatures be collected for constitutional than statutory changes. This goal, however, also could be accomplished, and perhaps more effectively so, by requiring a higher vote total to approve a constitutional change. In Arizona, the case for abandoning two sets of requirements is strengthened by the Voter Protection Act, which makes changing either the statutory or constitutional initiative approved by the voters very difficult to do and thus reduces the incentive to favor the constitutional route.

⁴ Kevin Kiley, "With voter initiatives, powerful reign," *The Arizona Republic*, August 21, 2010.

⁵ Elisabeth R. Gerber, "The Logic of Reform: Assessing Initiative Reform Strategies," in Larry J. Sabato, Howard R. Ernst, and Bruce A. Larson, eds. *Dangerous Democracy?* (Lanham: Rowman & Littlefield Publishers, 2001): 143-172 at 151.

⁶ Howard Fischer, "Initiatives are too easy, governor says," *The Arizona Daily Star*, August 17, 2000.

⁷ See generally: National Conference of State Legislatures, "Initiative Petition Signature Requirements," updated 9-20-2012. Found at: <http://www.ncsl.org/legislatures-elections/elections/signature-requirements.aspx>.

⁸ Citizens in Charge Foundation, *Of the People, By the People, For the People: A 2010 Report Card on Statewide Voter Initiative Rights*) Found at <http://www.citizensinchargefoundation.org/stategrades>

⁹ Howard Fischer, "Committee backs shorter initiative filing period," *Arizona Daily Sun*, February 6, 2013.

¹⁰ National Conference of State Legislators, Initiative and Referendum in the 21st Century: Final Report and Recommendations of the NCSL I&R Task Force, July 2002

¹¹ *Meyer v. Grant* 486 U.S. 414, (1988).

¹² Gerber, "The Logic of Reform," 148.

¹³ National Conference of State Legislators, "Laws Governing Petition Circulators" (Last updated November 15, 2012) Found at <http://www.ncsl.org/legislatures-elections/elections/laws-governing-petition-circulators.aspx>

¹⁴ See: Angelo Paparella, "The Barriers to Participation: The Consequences of Regulation," in M. Dane Waters, *The Battle Over Citizen Lawmaking* (Durham, North Carolina: Carolina, Academic Press): 121-130 at 124.

¹⁵ See: Mary Jo Pitzl, "Arizona bills deal with campaign reform," *The Arizona Republic*, February 28, 1913.

¹⁶ As of November 2012, Montana, Nebraska, North Dakota, Oregon, South Dakota and Wyoming banned paying petition circulators per signature. While North Dakota and Oregon's laws have been upheld in federal circuit courts, similar laws or provisions have been invalidated by federal courts in Idaho, Maine, Mississippi and Washington. See: National Conference of State Legislators, "Laws Governing Petition Circulators."

¹⁷ *Ibid.*

¹⁸ For background research see: Todd Donovan and Daniel A. Smith "Identifying and Preventing Signature Fraud on Ballot Measure Petitions," in Michael Alvarez, Thad E. Hall, and Susan D. Hyde, eds., *Election Fraud: Detecting and Deterring Electoral Manipulation*. Washington, DC: Brookings, 2008. See also comments by University of Florida Professor Daniel Smith in Vincent Carroll, "Carroll: Heaping burdens on petitions." *Denver Post*, May 19, 2010.

¹⁹ Matthew Benson, "Bill pushes change in initiative process," *The Arizona Republic*, March 4, 2009.

²⁰ National Conference of State Legislatures, "Initiative Petition Signature Requirements."

²¹ See, for example, Walter S. Baer and Roy Ulrich, "Online Signature Gathering for California Initiatives," Center for Governmental Studies, June 2008. Found at: http://www.newamerica.net/files/OnlineSig_06_11_08_ru.pdf.

²² Gary Grado, "State unveiling system for online petition gathering," *Arizona Capitol Times*, January 20, 2012. In this article Andrew Chavez, owner of a petition management company, points out that the legislature also has loosened other restrictions on those who circulate candidate petitions while not doing the same for those who circulate initiative petitions.

²³ According to the Massachusetts Secretary of State's home page, since 1919 groups have used the indirect initiative to propose 72 statutes and 32 of these (about 44 percent) have gone on to the legislature. The process has been used only three times to propose constitutional amendments and two of these have gone to the legislature. "Massachusetts Statewide Ballot Measures," <http://www.sec.state.ma.us/ele/elebalm/balmover.htm>. Constitutional amendments in the Massachusetts system must go through two successive sessions of the legislature and must get the approval of 25 percent of the legislators in each session before going to the voters.

²⁴ Robert M. Stern, "California Should Return to the Indirect Initiative," *Loyola of Los Angeles Law Review*, 2010: 671-686.

²⁵ Ibid. See also: National Conference of State Legislators, *Initiative and Referendum in the 21st Century*.

²⁶ Adams v. Bolin, 74 Ariz. 269; 247 Pac.2d 617 (1952). See discussion in N.D. Houghton, "Arizona's Experience With the Initiative and Referendum," *New Mexico Historical Review*, 29, 1954: 183-209.

²⁷ See generally "Legislature Criticized For Ignoring 'Will of the People'" *Arizona Capitol Times*, February 17, 1995 and "Newspapers Hammer Legislative Efforts to Reverse Public Votes," *Arizona Capitol Times*, February 3, 1995.

²⁸ National Conference of State Legislators, "Limiting the Legislature's Power to Amend and Repeal Initiated Statutes," June 28, 211, found at: <http://www.ncsl.org/legislatures-elections/elections/limits-on-legislative-power.aspx>

²⁹ See, for example, position taken by Sierra Club on HB2007 at http://arizona.sierraclub.org/political_action/tracker/HB2007.html ballot measures; proposition 105 disclosure.

³⁰ See, for example, Shaun Bowler and Todd Donovan, *Demanding Choices* (Ann Arbor: University of Michigan Press, 1998).

³¹ Katherine R. Knobloch, John Gastil, Robert Richards, and Traci Feller, *Evaluation Report on the 2012 Citizens' Initiative Reviews for the Oregon CIR Commission*. University Park: The Pennsylvania State University. Available online at: <http://www.la1.psu.edu/cas/jgastil/CIR/ReportToCIRCommission2012.pdf>

Note from the author, Dr. David R. Berman

The author would like to thank the following individuals for helping me gather information for this report: Jennie Drage Bowser, National Conference of State Legislatures; Mary Fontes, Arizona Secretary of State's Office; and Karen Schroeder, Arizona State University adjunct, who was active in the Top-Two Primary effort.

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